IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2692 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJIVKUMAR AGRAWAL 453.6, CHANAKYAPURI, - Petitioner(s)
Versus
UNION CARBIDE "E" LTD - Respondent(s)

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Appearance :
MR KV GADHIA for Petitioner
MR KB NAYAK for Respondent

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 23/07/2007

ORAL JUDGMENT

Shri K.V. Gadhia, learned counsel for the petitioner; Shri K.B. Nayak, learned counsel for the respondent.

2. The petitioner being aggrieved by the award dated 30.9.99 passed by the learned Labour Court, Ahmedabad in Reference[L.C.A.] No. 1329 of 1992 is before this Court with a submission that the Labour Court was absolutely unjustified in rejecting the Reference and in further holding that removal of the petitioner from the office held by him was proper and did not amount to any illegal exercise of the powers by the employer.

3. The short facts necessary for disposal of the present matter are that the petitioner, who was confirmed as Territory Supervisor, met with an accident and continued on medical leave. He submitted medical certificates from the date of the accident up to 10.6.89, the certificates were accepted and the employer granted leave on the said basis. However, somewhere in April, 1991, a notice was issued to the petitioner asking him to show cause as to why his services be not brought to an end in view of his medical incapacity and unfitness. The petitioner submitted his reply, no inquiry was held and in

view of the submissions made by the petitioner and medical certificates, the respondent-industry terminated the services of the petitioner.

4. Reference was made to the Labour Court at the instance of the petitioner. After recording evidence and hearing the parties, the Labour Court found that termination of the petitioner was neither malicious nor was counter-blast against the demand made by the petitioner for the period of overtime. It held that in view of the medical unfitness and incapacitation of the petitioner, he was rightly removed.

5. After hearing the learned counsel for the parties, I must hold that the learned Labour Court was not unjustified in rejecting the Reference. Once it is proved that the petitioner suffered injuries to his thigh incapacitating him from work as Territory Supervisor and as he cannot undertake travelling to meet the requirements of his office, he could not be continued on the said post. The petitioner in fact, became dead wood for the office held by

him and certainly could not discharge the responsibility assigned to him. If that be so, then, the petitioner cannot be said to be wrongfully relieved from the services. The petition deserves to and is accordingly dismissed. Rule is discharged. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

pirzada/-